THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO.20946 of 1999

Dated: 05-07-2006

Between:

Mohd. Osman Shaheed.

..... PETITIONER

AND

Hyderabad Telecommunications, Hyderabad.

.....RESPONDENT

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION NO.20946 of 1999

ORDER:

The petitioner is a practising Advocate. He obtained telephone connection bearing No.4015022 at his premises. His wife Smt. Massarath Jahan Begum also obtained another telephone connection bearing No.4016915 in her name. When there were telephone arrears to be paid by the petitioner, his telephone bearing No.4015022 was disconnected. He, therefore, filed W.P.No.7094 of 1999 and obtained interim orders, as a result of which his telephone connection was restored. Thereafter as there were still dues unpaid in respect of his wife's telephone bearing No.4016915 in a sum of Rs.24,786/-, the Accounts Officer of Hyderabad Telecommunications (now BSNL) issued impugned letter dated
28-09-1999 calling upon him to pay the outstanding dues in respect of said telephone bearing No.4016915, which was disconnected. Apprehending that his telephone might be disconnected, he filed the instant writ petition.

While admitting the writ petition on 19-04-2000, this Court suspended the impugned letter dated 28-09-1999 as a result of which telephone in question was not disconnected.

The petitioner contended that it is not competent for the respondent to call upon him to pay the telephone bills of his wife's telephone nor it is permissible for the respondent to disconnect telephone of one subscriber for default of another subscriber.

The Sub Divisional Engineer (Legal) II in the office of the Principal General Manager, Hyderabad, filed a counter-affidavit opposing the writ petition. The notice is justified placing reliance on Rule 443 of the Indian Telegraph Rules, 1951(the Rules, for brevity). It was also alleged that the petitioner did not clear the dues or close the telephone bearing No.4016915. According to the respondent when both the telephones are working in the same place and there is a close relation between the two subscribers, it is permissible to disconnect one telephone for the default in payment of bills of another telephone.

No reply-affidavit is filed denying the counter averments.

The learned counsel for respondent-BSNL, Sri S.S. Varma, has placed reliance upon a decision of a Division Bench of this Court in **Asst.G.M. v. Mahalakshmi L & T.C. Services**[1]**.** In the said decision, it was held as under:

> What has been hitherto used by people, who constituted private limited companies and created subsidiaries

> to such companies even as public limited companies to avoid taxes and the Courts noticed how, by creating two separate legal entities, certain persons were evading taxes and extended for such purposes the rule of piercing the veil and seeing the real person behind the companies and corporations, we have found to our dismay, has been used by a person, who, we are informed, is an advocate by profession and is running a legal and tax consultancy firm for the purposes of getting more than one telephone connection and using, in the event of default, the so called legal character of the firm to avoid disconnection by invoking Rule 443 of the Indian Telegraph Rules. We do not, however, propose to take any serious view of such a conduct of Mr. M.V.K. Murthy except to record that when cloak is removed the real relationship of the owner of the first telephone connection (Mr. M.V.K. Murthy) and the owner of the second telephone connection
> (Mrs. Mahalakshmi) is revealed and they are none else than the husband and wife. We are satisfied in the instant case that Rule 443 of the Indian Telegraph Rules is attracted and the appellant have committed no error in invoking the same.

In this case, there is no denial that Smt. Massarath Jahan Begum is wife of petitioner. There is also no denial that petitioner is also using the telephone bearing No.4016915 and therefore there cannot be any objection for applying Rule 443 of the Rules as held by the Division Bench of this Court in the above referred case.

Therefore, the writ petition, which is devoid of merits, is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

5th July, 2006
ghn

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[1] 1996 (4) ALD 247 (D.B.)